

REMARKS

The present request is submitted in response to the final Office Action dated October 31, 2007, which set a three-month period for response, making this amendment due by January 31, 2008.

Claims 1-10 are pending in this application.

In the final Office Action, claims 1-5, 7 and 10 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-5 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,301,790 to Zeiler et al in view of U.S. Patent No. 5,074,179 to Omi.

The Applicants note with appreciation the allowance of claims 6, 8, and 9 as well as the conditional allowance of claims 7 and 10.

In the present amendment, the claims have been amended to address the rejection under Section 112, second paragraph, and to rewrite any other possibly indefinite language. Claim 7 now should stand in condition for allowance. Allowable claim 10 has been rewritten in independent form to include the features of claims 1 and 2.

Turning next to the new grounds for rejection of claims 1-5 as unpatentable over the combination of Zeiler and Omi, the Applicants respectfully disagree that the proposed reference combination suggests all of the features of independent claim 1.

As previously argued, the force-dependent coupling (70) for the handle (66) in Zeiler et al. does not allow for complete (full) decoupling of the handle from the housing (166). The coupling in Zeiler et al. is designed to allow the user to select

between two or more *fixed* handle positions relative to the housing in order to facilitate the pushing or pulling of the saw during cutting. The saw disclosed in Zeiler et al. cannot protect the user from kick-back because the handle of the saw is fixed to the housing during use and cannot automatically uncouple the handle from the housing.

The patent to Omi describes a “vibration damper 3”, which is provided inside the guard 4 and located between the internal surface of the guard 4 and a body 1a of the rotary saw blade 1. The vibration damper 3 has an arcuate metal plate 10 and a pair of contact members 11 each fixed to one side surface of and at each end of the plate 10. Each contact member 11 is made of a wood segment and has a plurality of dimples 11a formed on its surface for absorbing noises.

In contrast, as described on pages 1-2 of the present application and defined in claim 1, the saw assembly of the present invention is automatically decoupled from handling forces acting on the saw blade. As described in greater detail in the specification page 5, line 28 through page 6, line 20, a locking flank and latching flank 52, 54 are selected so that when a specific critical force acts on the saw assembly 52 and attempts to rotate it upward around the joint, the latching flank 54 can be released from the locking flank 52, so that a detent coupling 44 is opened and the saw assembly 12 can be accelerated.

Thus, the saw assembly according to the present invention does not require the traditional “vibration damper”, i.e., a plate and contact members that must be placed between the saw blade and the safety guard, as in Omi and other similar state of the art devices. Rather, as amended claim 1 defines, the assembly is

configured so that these forces acting on the saw blade, primarily from the handle, are automatically decoupled – either substantially or completely – with the above-described latching flank/detent coupling mechanism.

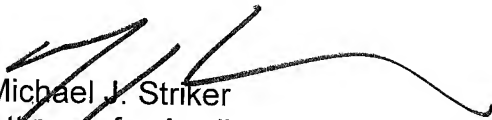
Thus, even if Zeiler were combined with Omi, as proposed by the Examiner, the resulting device would still simply be the apparatus of Zeiler equipped, now with a vibration damper in the form of a metal plate with wooden connecting pieces. No such detent coupling mechanism system is even suggested by Omi.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01).

When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long, sweeping horizontal flourish extending to the right.

Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700